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Fleming, Sandford

THE HIGGINSON CLAIM
MEMORANDUM
BY SIR SANDFORD FLEMING
MAY 3RD, 1905.

Memorandum on the Higginson Claim

BY SIR SANDFORD FLEMING.

OTTAWA, MAY 3RD, 1905.

The Higginson claim is in part explained in the printed correspondence attached hereto. The following additional explanations are submitted in further elucidation thereof, and in justification of the course followed by me.

It was originally arranged between the Home Government and the Governments of the several North American Provinces (vide despatches prior to 1863) that the Intercolonial Railway projected to extend from Quebec to Nova Scotia should be under the direction of three Engineers; one to represent the United Provinces of Upper and Lower Canada (now Ontario and Quebec), another to represent New Brunswick and Nova Scotia, another to represent Her Majesty's Home Government. When the time came for appointing the three Engineers, the selection made by the two Canadian Provinces fell upon myself. This was followed by New Brunswick and Nova Scotia making the same choice, and soon afterwards the Home Government appointed me likewise. Some years later when the several Provinces came to be united, the Federal Government affirmed the appointment. Thus I became the sole Engineer representing all the Governments

concerned, from the commencement of explorations in 1863, to the completion of the Intercolonial Railway in 1876. I naturally felt the responsibility of the position in which I was placed, and from first to last it was my constant endeavour to leave nothing undone which it was possible for me to do, to have the Railway constructed as a great national highway in every sense worthy of the purpose of its establishment.

When surveys were completed and the plans and specifications prepared for actual construction, the Federal Government appointed a Board of four Commissioners with whom it became my duty to act.

In those days it was customary in building Railways to make the bridges of wood, I had designed them to be of iron and stone in order to secure permanency. The Commissioners differed from me on this point. They determined to have them made of wood, and notwithstanding my emphatic and repeated protests, they entered into contracts for wooden bridges over the whole line. The rest of the story may be gathered from the annexed printed documents and other documents mentioned on page 7.

In brief, I may state that after many appeals against the policy of degrading the character of the national Railway by the employment of perishable materials, and the erection of perishable works, more especially when permanency could be secured at little or no greater cost. I succeeded, at length, through Mr. Higginson as an intermedium, to demonstrate to the Government that the Commissioners were entirely in error. The struggle which lasted from January 1869 until May 1871 ended by the abandonment of what I regarded as

the ill advised determination of the Commissioners, the reversal of their policy and the erection of permanent structures throughout the length of the railway.

A few years later Mr. Higginson executed some work for the Commissioners, his claim for which has been proved to be reasonable and correct. The commission however failed to see him paid, — indeed up to the present time he remains unpaid. Mr. Higginson lives in England. He has not failed to present his claim year by year to the Canadian Government. He has visited Canada himself. He has sent his brother, and more recently his daughter to press his claim, but all without success. Naturally retaining an active sense of gratitude for the service Mr. Higginson rendered me in my efforts to undo the unwise policy of the Commissioners, and knowing how much embarrassed he has been by the non-payment of what is due him by the Government, I purchased half of his claim for the sum of \$6378.08 and transferred it to Queens College. In doing this my purpose was two-fold. — (1) The immediate object was to relieve Mr. Higginson and enable him to meet pressing needs. (2) My second object was to benefit Queens University with which I have long been closely associated. In taking this course I was moved by the consideration that while Mr. Higginson is in England, the agents of Queens are in Canada, and consequently are in the best position to keep the matter before the Government and follow the case to a successful issue.

Miss Higginson before she left Canada handed me a copy of a memorial which she laid before his Excellency the Governor General. This memorial states the case briefly from

the claimants point of view, and, I am satisfied that not one of the facts stated can be disputed. It concludes in these words. "The broad facts are precisely as stated. The public have had the benefit of my father's services and expenditure for nearly twenty-six years, while the Government has not paid the amount due him as ascertained by their officer. If payment has been delayed so long, I humbly submit that there is the more reason why justice should now be extended to him. It is impossible to think that the Government and people of Canada desire to profit at my fathers cost."

The memorial is dated March 24th, 1902. The claim still remains unsettled and until settled the Higginson family will continue to suffer an injustice which it is impossible for any right-minded person to approve or defend; an injustice which every Canadian with a full knowledge of the facts and a proper sense of right and wrong would wish to have removed.

SANDFORD FLEMING.

*Memorial to His Excellency the Earl of Minto, Governor-General,
from Miss Higginson, referred to in foregoing memorandum.*

Ottawa, March 24th, 1902.

TO HIS EXCELLENCY THE GOVERNOR-GENERAL.

MAY IT PLEASE YOUR EXCELLENCY.

I beg permission respectfully to submit the following facts, and I humbly beg that your Excellency will direct that justice be done in the matter.

(1) I am a native born Canadian,—of late years have resided with my father Mr. H. Bingham Higginson in Liverpool, England. My father has a valid claim against the Government of Canada for services performed and money expended by him in constructing the Intercolonial Railway.

(2) Every year since the completion of the Intercolonial Railway in 1876, my father has pressed for a settlement of his claim, but no settlement has been vouchsafed to him.

(3) In January last year I was sent by my father to Canada to remain until a settlement be reached. I have been here fourteen months and exhausted all ordinary means of obtaining redress. I am at length constrained to approach your Excellency with my appeal for justice.

(4) That the claim is well founded, I ask your Excellency to permit me simply to state that the Chief Engineer of the Intercolonial Railway, certified that it was due him, in November, 1880.

(5) Since that date nothing has been paid my father, and the only reason which has been assigned for non-settlement is that the Government made a payment in 1878 to a company with which my father was connected, and it has been erroneously supposed that the services for which my father makes claim were covered by that payment. As a matter of fact, capable of absolute proof, my father makes no claim for any services included in that payment, but for services which have never been paid, and for which my father only has any claim. In evidence of the fact I beg leave to quote from a report of the Engineer in Chief, which I have seen since I arrived in Ottawa. It is dated November 4th, 1880, two years subsequent to the date of the payment referred to in 1878.

"After a very careful investigation and due consideration
"of all the evidence, documentary and otherwise produced, I
"have arrived at the conclusion that Mr. Higginson is entitled
"to the sum of \$12,752.15 in settlement of his claim, without
"interest, that being a subject with which I am not competent to
"deal. Should the Government, however, entertain this item, it
"should date from the completion of the work in the spring of
"1876, to the settlement of the claim."

"(Signed) FRANK SHANLEY,

"Chief Engineer,

"Intercolonial Railway."

(6) Such is the opinion of the Government Officer, duly appointed by Order-in-Council. His report is filed among the records in the Department of Railways and Canals, and the conclusion reached by him cannot be disputed.

(7) It is true that the claim is a very old one, but that is no fault of my father; he has, year by year, again and again, urged that it should be paid, but his importunities have, I think, been unfairly dismissed.

(8) The broad facts are precisely as stated. The public has had the benefit of my father's services and expenditure for nearly twenty-six years, while the Government has not paid the amount due him as ascertained by their own officer. If payment has been delayed so long, I humbly submit that there is the more reason why justice should now be extended to him. It is impossible to think that the Government and people of Canada desire to profit at my father's cost.

(9) In testimony of the accuracy of the statements made, I am authorized to refer your Excellency to Sir Sandford Fleming, at one time Engineer in Chief of the Intercolonial Railway, and Mr. Chrysler, my legal adviser; both gentlemen are perfectly familiar with the circumstances, and can vouch for the facts stated. I am further permitted to offer as reference, Mr. William Roche, representative in Parliament of my native City.

I have the honour to be,

Your Excellency's Obedient Servant,

CAROLINE HIGGINSON.